

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4214 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

GOPALJI JUGAJI THAKORE, SINCE D/D THROUGH HEIRS:-

Versus

SHARDABEN R BANKER

Appearance:

1. Special Civil Application No. 4214 of 1992
MR PJ VYAS for Petitioner No. 1-1/8
MR AJ PATEL for Respondent No. 1-4
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CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 10/03/2005

ORAL JUDGEMENT

The petitioner has approached this court for
challenging the order passed by the Gujarat Revenue

Trihunal dated 25.7.1991 whereby it has been held that in view of notification dated 1.8.1956 the petitioner would not be entitled to the benefits of provisions of Bombay Tenancy & Agricultural Lands Act.

2. It appears that the tribunal has relied upon the decision of this court in the matter of New Asarwa Mfg.Co.Ltde vs Jetha Parma reported in AIR 1973 Gujarat 156. Further it appears that the decision of the Apex Court in the matter of Sakhrum vs Manikchand Motichand Shah (1962) 2 SCR 59: (AIR 1963 SC 354) is subsequently overruled by the larger bench of the Supreme Court in its decision in the matter of S.N.Kamble vs The Sholapur Borough Municipality reported in AIR 1966 SC 538. Therefore, it appears that when the provisions of the Act would not be applicable in view of the notification, dated 1.8.1956, it can not be said that the tribunal has committed any jurisdictional error nor can it be said that the discretion exercised by the tribunal is so perverse which would call for interference by this court under Article 227 of the Constitution of India. Under the circumstances, the order passed by the tribunal, more particularly, in view of the reasons recorded at para 10 in the said decision of the tribunal does not call for interference. It is not a case for upsetting the decision of the tribunal in exercise of powers under Article 227 of the Constitution of India.

3. In view of the above, petition fails. Rule is discharged. Interim relief granted earlier stands vacated. Considering the facts and circumstances of the case, there shall be no order as to costs.

10.3.05 (JAYANT PATEL,J)